



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 27, 2006

Mr. Joseph Romano
Franklin Business Center
20 Canal Street
Franklin, New Hampshire 03235

RE: Administrative Order No. ARD 06-001

Dear Mr. Romano:

The New Hampshire Department of Environmental Services, Air Resources Division ("DES") is issuing the enclosed Administrative Order No. ARD 06-001, to you with respect to violations concerning the Franklin Business Center. The Administrative Order addresses violations of N.H. Admin. Rules Env-A 100 *et seq.*

If you have any questions, please contact Barbara Hoffman at (603) 271-7874.

Sincerely,

COPY

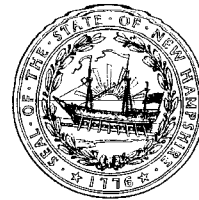
Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/blh

cc: R. Kurowski, EPA Region I
J. Patterson, NH AGO-EPB
G. Hamel, DES Legal Unit
Public Information Officer, DES PIP Office
David Palfrey, Mayor, City of Franklin
File AFS #330130005



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Joseph Romano
20 Canal Street, Unit 4
Franklin, NH 03235

Re: Franklin Business Center

ADMINISTRATIVE ORDER
No. ARD 06-001
(STA. S)

January 27, 2006

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Air Resources Division to Joseph Romano Realty Trust pursuant to RSA 125-C:15. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Air Resources Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire 03301.
2. Joseph Romano is an individual having a mailing address of 20 Canal Street, Unit 4, Franklin, New Hampshire 03235.

C. STATEMENTS OF FACTS AND LAW

1. RSA 125-C authorizes DES to regulate sources of air pollution in New Hampshire. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, the Commissioner has adopted NH Admin. Rules Env-A 100 *et seq.*
2. Specifically, RSA 125-C:6 authorizes DES to establish a statewide system under which permits shall be required for the construction, installation, operation or material modification of air pollution devices and sources. Pursuant to this authority, the Commissioner has adopted N.H. Admin. Rules Env-A 600, *Statewide Permit System*.
3. On information and belief, Joseph Romano is the current owner of Franklin Business Center ("FBC"). FBC is the location of manufacturing, office and storage space for several different companies at 20 Canal Street, Franklin, New Hampshire ("the Facility"). Joseph Romano operates one 10.65 MMBtu/hr boiler on #2 fuel oil, which provides heat to the entire Facility and is operated manually for approximately five hours per day.
4. On August 3, 1999, DES issued State Permit to Operate #PO-B-204 (the "Permit") to Daniel Petrini, then the owner of the Facility. The Permit expiration date was August 31, 2004.
5. The current owner of the Facility, as registered on the tax records with the City of Franklin, is Joseph Romano Realty Trust.

6. Joseph Romano Realty Trust is not a legal entity registered to do business in New Hampshire. On information and belief, the current *de facto* owner of the Facility is Joseph Romano.
7. Env-A 605.04(b) requires the owner or operator of a facility permitted pursuant to Env-A 600 to notify DES within 30 days of the change in the identity of the owner or operator. DES has no record of proper notification of the change in ownership of the Facility.
8. Env-A 608.10 (a) requires the owner or operator of any stationary source or device to submit to DES an application for permit renewal at least 90 days prior to the designated expiration date of the existing state permit to operate. On February 25, 2004, DES sent a letter to Daniel Petrini, which stated that the Permit was due to expire on August 31, 2004 and that a renewal application was required to be submitted at least 90 days prior to the expiration date of the permit. No application for renewal was received prior to the expiration date of the Permit for the Facility.
9. On April 6, 2005, DES conducted an on-site unannounced compliance inspection of the Facility. The inspection was conducted to determine the Facility's compliance status against the Permit issued on August 3, 1999.
10. Env-A 1703.01 specifies the information required to complete a form ARD-1, *General Information for all Permit Applications* ("ARD-1 Form"), and Env-A 1704.01 specifies the information required to complete a form ARD-2, *Information Required for Permits for Fuel Burning Devices* ("ARD-2 Form").
11. At the time of the April 6, 2005 inspection, DES completed most of the ARD-2 Form for the Facility and requested that Jen Furlow, then the Facility manager, complete the sections on stack information and combustion type and submit it to DES. DES also requested that the ARD-1 Form be completed, signed by Mr. Romano, and submitted to DES.
12. On May 11, 2005, DES received an incomplete application packet from the Facility. Section III of the ARD-1 Form was not completed and the support data, specifically, a to-scale site plan of the Facility, was not included. In addition, the ARD-2 Form was missing the stack information and combustion type. A signed affidavit certifying property ownership was also not included with the application.
13. Env-A 705.01 and Condition VI.A of the Permit require the owner of the Facility to submit annual emission-based fees to DES. The fees for the Facility have not been paid for calendar years 2002, 2003, and 2004.
14. Env-A 903.03 (a) (3) and Condition VII.C. of the Permit require the owner or operator to record the monthly consumption of #2 fuel oil, hours of operation, and sulfur content as percent sulfur by weight of #2 fuel oil. Joseph Romano has not maintained fuel consumption records, hours of operation, or fuel sulfur concentrations for the Facility.
15. Env-A 907.01 (a) and Condition VIII.A.1 of the Permit require the owner or operator to submit annual emission reports. Joseph Romano has not submitted annual emission reports for the Facility for calendar years 2002, 2003, and 2004.
16. On August 22, 2005, Letter of Deficiency No. ARD 2005-13 (the "LOD") was issued to Mr. Joseph Romano. The LOD requested that he submit complete and accurate ARD-1 and ARD-2 Forms to DES within 15 days of the date of the issuance of the LOD, and within 30 days of the date of issuance of the LOD submit annual emission reports for calendar years 2002, 2003, and 2004 and submit the corresponding emission-based fees for calendar years 2002 (\$70.80 per ton), 2003 (\$85.37 per ton), and 2004 (\$86.75 per ton).

17. The LOD was received by Tracy Bachand for Joseph Romano on August 24, 2005, as evidenced by the signed certified mail postal receipt.

18. On October 21, 2005, DES personnel spoke with Tracy Bachand at the Facility to request compliance with the LOD. Pursuant to Ms. Bachand's request, the LOD was sent to her via facsimile. DES again requested that the Facility respond to the LOD by no later than October 26, 2005. In addition, DES personnel spoke with Ms. Bachand and Frank Bowen at the Facility on November 8, 2005 and November 17, 2005 in an attempt to obtain the information.

19. To date, Joseph Romano has not submitted the past-due emission-based fees or the past-due annual emission reports.

D. DETERMINATION OF VIOLATIONS

1. Joseph Romano has violated Env-A 605.04(b) by failing to submit to DES an ARD-1 form containing the information specified in Env-A 1703.01(b)(1) through (b)(7) and the signed certification statement specified in Env-A 1703.01(c), within 30 days of the change in the identity of the responsible official, the applicant, the owner or the operator.

2. Joseph Romano has violated Env-A 608.10(a), by operating the boiler at the Facility without a permit since August 31, 2004.

3. Joseph Romano has violated Env-A 903.03 by failing to record the Facility's monthly consumption of #2 fuel oil, hours of operation, and sulfur content as percent sulfur by weight of #2 fuel oil.

4. Joseph Romano has violated Env-A 907.01 (a) by failing to submit annual emission reports for the Facility for calendar years 2002, 2003, and 2004.

5. Joseph Romano has violated Env-A 705.01 by failing to submit annual emission-based fees for the Facility for calendar years 2002, 2003, and 2004.

E. ORDER

Based on the above findings, DES hereby orders Joseph Romano as follows:

1. Within 15 days of the issuance of this Order, submit complete and accurate ARD-1 and ARD-2 forms to DES, including a site plan, as well as a proof of ownership affidavit.

2. Within 30 days of the date of issuance of this Order, submit annual emission reports for calendar years 2002, 2003, and 2004.

3. With 30 days of the issuance of this Order, submit the corresponding emission-based fees for calendar years 2002 (\$70.80 per ton), 2003 (\$85.37 per ton), and 2004 (\$86.75 per ton).

4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Barbara Hoffman
Enforcement Section Supervisor
DES Air Resources Division
P.O. Box 95
Concord, NH 03302-0095
Phone: (603) 271-7874/Fax: (603) 271-7053
e-mail: bhoffman@des.state.nh.us

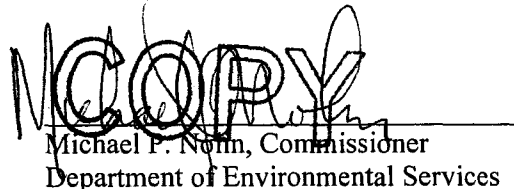
F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Air Resources Council by filing an appeal that meets the requirements specified in Env-AC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://des.nh.gov/rules/env-ac200.pdf>. Appealing the Order does not automatically relieve Joseph Romano of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 125-C provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Joseph Romano remains obligated to comply with all applicable requirements, in particular the need to report annual emissions, pay emission-based fees and submit timely applications for permit renewal. DES will continue to monitor Joseph Romano's compliance with applicable requirements and will take appropriate action if additional violations are discovered.


Robert R. Scott, Director
Air Resources Division


Michael P. Naim, Commissioner
Department of Environmental Services

Certified Mail/RRR: [7099 3400 0018 1290 6566]

cc: R. Kurowski, EPA Region I
J. Patterson, NH AGO – EPB
G. Hamel, DES Legal Unit Administrator
Public Information Officer, DES PIP Office
David Palfrey, Mayor, City of Franklin
File AFS #3301300057